

To: Robert Torres

FILED  
Clark  
District Court

30 JUNE

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

LEONARDO M. RAPADAS  
United States Attorney  
JAMIE D. BOWERS  
Assistant United States Attorney  
DISTRICT OF THE NORTHERN  
MARIANA ISLANDS  
Horiguchi Building, Third Floor  
P.O. Box 500377  
Saipan, MP 96950  
Telephone: (670) 236-2986  
Fax: (670) 236-2945

Attorneys for United States of America

UNITED STATES DISTRICT COURT  
NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,

Criminal Case No. CR 05 00022

Plaintiff,

## COMPLAINT

v.

DAI Xaio Jun

Count 1

Trafficking in Counterfeit Goods  
18 U.S.C. § 2320

Count 2

Possession of a Controlled Substance With  
Intent to Distribute  
21 U.S.C. §§ 841(a)(1) & 841(b)(1)(D)

Defendant.

THE UNDERSIGNED COMPLAINANT CHARGES UPON INFORMATION AND  
BELIEF THAT:

COUNT 1Trafficking in Counterfeit Goods

On or about June 29, 2005, in the District of the Northern Mariana Islands, the defendant knowingly, intentionally and unlawfully trafficked and attempted to traffic in counterfeit goods. That is, defendant transported, transferred, and caused to be transported and transferred, approximately 4000 counterfeit tablets of the prescription drug, Viagra, bearing counterfeit manufacturer's markings.

This is a violation of Title 18, United States Code, Section 2320.

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COUNT 2

Possession of a Controlled Substance With Intent to Distribute

On or about January 29, 2005, in the District of the Northern Mariana Islands, the Defendant, DAI Xiao Jun, did knowingly and intentionally possess with intent to distribute approximately 2 pounds of Marijuana, a Schedule I controlled substance.

This is a violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D).

COMPLAINANT FURTHER STATES:

I Matthew Goward, having been duly sworn, hereby depose and state:

1. On June 12, 2005, a parcel from China destined for Saipan was intercepted at the San Francisco Mail Facility containing approximately 2.75 kilos of suspected counterfeit Viagra. The package was sent via express mail under express mail bill number EA676698549CN.

2. Further examination of the package revealed that the pills were wrapped in Chinese newspaper and plastic and concealed inside a DVD player. The package was seized and referred to the RAC Guam for action. The package was addressed to a Chen JIAN at PMB 212, PO Box 10002, Saipan, 96950. The package was sent from Zhu JUN at No.19 Wen Yi Road, Shene District, China. FDA Inspector Bobby Smith who was at the facility at the time of the seizure observed that the pills appeared to be counterfeit. While no lab tests were performed at the facility, Inspector Smith has had experience with counterfeit Viagra pills on previous occasions.

3. On June 14, 2005, SSA Matt Goward of the RAC Guam initiated an investigation into the suspect counterfeit Viagra. SSA Goward contacted Assistant US Attorney Jamie Bowers regarding the case and received approval for prosecution for the importation of counterfeit prescription medication. SSA Goward also contacted Postal Inspector Craig Hales regarding the case and to gather more information on the suspect receiving the package.

4. On June 17, 2005, SSA Goward received information from PI Hales regarding the destination of the package on Saipan. PI Hales provided information that PO Box 10002 belonged to a company called American Federal Group and that the American Federal Group acted as Commercial Mail Receiving Agency (CMRA). The CMRA acts as a private mail facility and

1 distributes mail to customers that pay for their service, often at postal boxes located within the  
2 business.

3 5. Records checks on the American Federal Group business show that the business is owned  
4 by three people from the Peoples Republic of China. The business has been acting as a CMRA since  
5 1994 and is located inside the Crown Market at the Chamorro Place Building, in Garapan, Saipan.  
6 The CMRA serves approximately 200 customers with box 212 being rented to a Bai YAN.

7 6. On June 17, 2005, SSA Goward received the evidence from the San Francisco Mail  
8 Facility. Inspection of the package sent from San Francisco showed that the inspectors had removed  
9 the Viagra from the packages within the DVD player and placed it inside an evidence bag. Also  
10 inserted into the box was a seizure notice indicating that the items had been seized.

11 7. Inspection of the DVD player revealed that the player had been used before. This was  
12 evident from the adhesive on stickers attached to the DVD player being extremely worn and from  
13 evidence of rust on the rear portion of the DVD player. Additionally, the parts on the DVD player  
14 did not fit together well and the screws showed evidence of wear.

15 8. On June 20, 2005, SSA Goward traveled to Saipan and received copies of documents  
16 relating to the CMRA and the Crown Market business. SSA Goward also visited the Crown Market.  
17 During the visit to the Crown Market, SSA Goward was able to identify one of the owners of the  
18 business working at the business. Inspection of the business did not reveal any post office boxes. A  
19 sign directly outside the business did however show that the CMRA was located at the market.

20 9. On June 23, 2005, SSA Goward received postal form 1583 from PI Hales for PMB 212  
21 located at the CMRA. The postal form 1583 shows that PMB 212 belongs to a Bai YAN, ID# 0168-  
22 96. The form also shows that a Dai YAN and Dai Xiao JUN are listed to receive mail at PMB 212.

23 10. On June 23, 2005, SSA Goward and TFA Barbara Tayama contacted Registered  
24 Pharmacist Mildred Gabriel at the Rexall Pharmacy in Tamuning, Guam. Ms. Gabriel presented to  
25 SSA Goward and TFA Tayama authentic Viagra purchased through a local wholesaler. Comparison  
26 of the authentic Viagra and the suspect counterfeit Viagra revealed that the counterfeit Viagra was  
27 larger in length and width than the authentic product. Further examination also showed that the  
28 counterfeit product had a slightly darker blue tone than the authentic.

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11. Ms. Gabriel performed a weight analysis between the two products and found that the counterfeit product was slightly heavier. This test was based on a 10 pill sample from both categories. SSA Goward and TFA Tayama inquired of Ms. Gabriel if any prescription medications from China were allowed into the United States. Ms. Gabriel stated that they weren't approved by the Food and Drug Administration and that Pharmacies were prohibited from purchasing medications from foreign countries. When asked if she thought that 4000 pills of Viagra was a reasonable amount for a pharmacy to have on hand, she stated that for the average pharmacy it would not be reasonable to have that quantity on hand.

12. On June 29, 2005, Special Agents from the Immigration and Customs Enforcement, United States Postal Service, Drug Enforcement Administration, CNMI Customs and CNMI Department of Labor executed a controlled delivery of the express mail package containing sham Viagra tablets to the Saipan US Post Office. The package was placed in the bin for PO Box 10002, belonging to a Commercial Mail Receiving Agency (CMRA) known as BBB, a.k.a. Golden Crown Market. The package was placed in the bin at approximately 1200 hours by PI Craig Hales. PI Hales observed the CMRA representative come to the box and pickup the mail designated for the CMRA. PI Hales observed the CMRA representative pickup the express mail package and place it inside a beige colored Toyota van and drive away from the US Postal Facility.

13. Surveillance units observed the beige colored Toyota van drive north on Beach Road towards the Garapan, Saipan area. The van then turned right onto Navy Hill road and came to stop in front of the Golden Crown Market. The CMRA is located inside the Golden Crown Market. SSA Goward observed the package being unloaded from the van and taken into the Golden Crown Market.

14. At approximately 1755 hours Major Ed Cabrera observed a male subject, dressed in black riding a bicycle arrive at the Golden Crown Market. Major Cabrera was able to identify the subject as Dai Xiao JUN, a person that is listed on Postal Form 1583 as receiving mail at box 212 from the CMRA. Several minutes later Dai Xiao JUN was observed leaving the CMRA with the package. Surveillance units followed Dai Xiao JUN as he traveled south on Navy Hill road towards the Hyatt hotel. JUN was then observed turning left down an alley and towards the Promenade area

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1 across from the Dai Ichi Hotel. JUN was then observed going inside the Liao Ti Tour agency  
2 business located in the Promenade area. Agents followed JUN into the business a few minutes later  
3 to observe that he had absconded through a secret door hidden behind a mirror in the rear of the  
4 business.

5 15. A search of the area and questioning of a female subject in the Liao Ti business lead  
6 Special Agents to an apartment above the Guang Zhou restaurant at the corner of Date street and  
7 Coral Tree avenue, directly across from the Dai Ichi hotel. The female subject directed agents to  
8 apartment B-3 located at the top of the stairs. Special Agents knocked on the door and announced  
9 their presence numerous times. SSA Goward heard activity inside the apartment and in an effort to  
10 preserve the evidence forced entrance into the residence.

11 16. After gaining entrance into the residence, SSA Goward observed JUN in the  
12 bedroom of his apartment. After securing JUN, a safety sweep was made of the apartment for  
13 other subjects and dangerous weapons. During the sweep, Special Agents observed portions of  
14 the sham Viagra tablets on the desk in the bedroom, along with labels marked Viagra, and  
15 prescription bottles on the bed.

16 17. An ultraviolet light examination of JUN's hands revealed the presence of "Cluc"  
17 spray that had been applied to the sham packages. The "Cluc" spray had been applied to the  
18 packages prior to the delivery to the CMRA and shows that JUN had handled the sham packages.

19 18. At approximately 2200 hours on June 29, 2005, SSA Goward obtained a Federal  
20 search warrant for the JUN's residence. During the execution of the search warrant, Special  
21 Agents found the express mail package that had been delivered to the CMRA in JUN's bedroom  
22 near the closet. Agents observed that 9 of the sham Viagra packages had been removed from the  
23 package and placed inside a plastic bag inside the closet and the other 2 were found on top of a  
24 desk in JUN's bedroom.

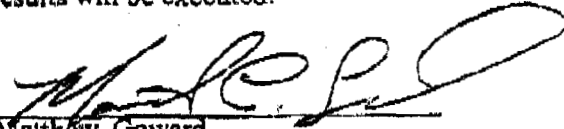
25 19. A search of the refrigerator in the kitchen revealed 9 large ziplock bags of a green  
26 leafy substance that was identified by Special Agents as being marijuana. Also found were 7  
27 smaller bags containing 5 rolled marijuana cigarettes each. The quantity and packaging of the  
28 marijuana are consistent with possession of marijuana for distribution.

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1 20. During a search of JUN's bedroom, Special Agents found numerous prescription  
2 bottles labeled with Viagra. Special Agents also found numerous unlabeled bottles consistent  
3 with the type used to package Viagra. Labels were also found in the bedroom that had been  
4 printed with the Viagra information.

5 21. Several thousand dollars of US and foreign currency was found at the residence and  
6 on JUN. Also found were numerous bank receipts from various banks showing deposits of  
7 several thousand dollars. Special Agents also found several passports belonging to different  
8 women in JUN's apartment.

9 22. A thorough examination and documentation of all the evidence gathered in this case  
10 is being conducted and a report detailing the results will be executed.

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12   
13 Matthew Goward  
14 Senior Special Agent  
15 Bureau of Immigration and Customs Enforcement

16 Subscribed and sworn to before me this 30<sup>th</sup> day of June, 2005.

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18   
19 Honorable Alex R. Manson  
20 U.S. District Judge  
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